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T.S., Appellant)	
)	
and)	Docket No. 18-1501
)	Issued: March 4, 2019
U.S. POSTAL SERVICE, POST OFFICE,)	
Dover, NJ, Employer)	
)	

Case Submitted on the Record

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On August 1, 2018 appellant filed a timely appeal from a February 26, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

The issue is whether appellant has met her burden of proof to establish left wrist and shoulder injuries causally related to the accepted August 8, 2012 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

This case has previously been before the Board.² The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On January 31, 2013 appellant, then a 48-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on, August 8, 2012, she injured her left wrist and shoulder when lifting a heavy parcel and delivering cluster boxes in the performance of duty. She stopped work on August 8, 2012 and did not return. OWCP assigned the claim File No. xxxxxx119.

The employing establishment, by letter dated February 4, 2013, noted that appellant had an accepted claim for an employment injury of January 4, 2012, assigned File No. xxxxxx080. Following that injury, she had returned to work on August 3, 2012 and had stopped work on August 8, 2012. Appellant had filed a notice of recurrence (Form CA-2a) claiming disability beginning August 8, 2012 under File No. xxxxxx080, which OWCP had denied. The employing establishment indicated that appellant was "now filing a new injury for the same date."

In an undated statement received by OWCP on March 22, 2013, appellant related that she had initially filed the wrong claim. She maintained that she had sustained an injury due to repetitively casing and delivering mail and lifting boxes weighting 15 to 20 pounds. Appellant indicated that her supervisor had instructed her to perform her usual employment rather than modified duties, which caused a new injury to her left wrist and shoulder.

By decision dated April 3, 2013, OWCP denied appellant's claim, finding that the medical evidence then of record was insufficient to establish a diagnosed condition as a result of the accepted August 8, 2012 work incident.³

Thereafter, OWCP received a progress report dated March 9, 2013 from Dr. Steven Stecker, a Board-certified orthopedic surgeon. Dr. Stecker discussed appellant's complaints of left shoulder and wrist pain, especially with repetitive lifting or overhead work. He indicated that a magnetic resonance imaging (MRI) scan study of the left shoulder was unremarkable and that a left wrist MRI scan study revealed basal joint osteoarthritis, degenerative changes, and a partial tear in the triangular fibrocartilage. Dr. Stecker attributed appellant's symptoms to her previous injury and recommended a diagnostic left shoulder arthroscopy.

On April 16, 2013 Dr. Stecker advised that he was currently treating appellant for "left shoulder impingement and left wrist tendinitis that she sustained while at work on January 4, 2012

² Docket No. 15-0930 (issued March 1, 2016).

³ By separate decision dated April 3, 2013, it found that she had not met her burden of proof to establish a recurrence of disability as she had not previously established a traumatic injury on August 8, 2012.

after lifting a mail cart out of a jam.”⁴ He found that she could perform light-duty employment, but that working repetitively overhead had aggravated her symptoms.

In a report dated April 24, 2013, Dr. Ross J. Fox, a Board-certified orthopedic surgeon, obtained a history of appellant twisting her left arm and wrist a year earlier when she was rolling a cart filled with mail. He diagnosed mild left carpal tunnel syndrome and mild left osteoarthritis of the carpometacarpal (CMC) joint of the left thumb.

On April 30, 2013 appellant requested a review of the written record before a representative of OWCP’s Branch of Hearings and Review.

By decision dated September 5, 2013, an OWCP hearing representative affirmed the April 3, 2013 decision denying appellant’s claim, as modified to find that appellant had not established that the September 8, 2012 employment incident occurred as alleged. She found that appellant’s statements regarding the occurrence of the incident were inconsistent and that the medical evidence submitted had failed to describe a new injury on August 8, 2012.

On July 1, 2014 appellant, through her representative, requested reconsideration. He related that she had initially filed a claim for a recurrence of disability commencing August 8, 2012 under File No. xxxxxx080, even though her condition had not recurred spontaneously, but was the result of exposure to new employment factors.

By decision dated September 23, 2014, OWCP denied modification of its September 5, 2013 decision. It again found that appellant had not factually established that the August 8, 2012 employment incident occurred as alleged.

Appellant appealed to the Board. By decision dated March 1, 2016, the Board set aside the September 23, 2014 decision.⁵ The Board found that appellant had established that she had performed repetitive actions delivering mail and lifting boxes on August 8, 2012. The Board remanded the case for OWCP to review the medical evidence and determine whether she had sustained an injury due to the accepted employment incident. The Board further instructed OWCP to combine the current record with OWCP File No. xxxxxx080.

On remand OWCP combined File No. xxxxxx119 into master File No. xxxxxx080.

In an August 8, 2012 report, initially submitted in File No. xxxxxx080, Dr. Stecker related that it had been seven months since appellant’s injury and that she currently complained of an exacerbation and progression of her symptoms after returning to limited-duty employment. He found a positive impingement sign and O’Brien’s sign on examination of the left shoulder. Dr. Stecker diagnosed left shoulder pain with possible internal derangement, a possible labral tear from her injury, and possible subacromial impingement. He recommended a left shoulder MRI

⁴ On April 22, 2013 Dr. Stecker performed an arthroscopic subacromial decompression of the left shoulder with acromioplasty and lysis of subacromial adhesions.

⁵ *Supra* note 2.

scan study arthrogram and found that appellant should remain off work “since her symptoms have been exacerbated.”

An August 13, 2012 left shoulder MRI scan study performed after arthrography revealed probable tendinosis of the infraspinatus and supraspinatus tendon, but no rotator cuff tear.

On August 17, 2012 Dr. Stecker advised that the left shoulder MRI scan arthrogram had revealed no labral abnormality or rotator cuff tear.⁶ On examination he found a positive impingement sign and O’Brien’s sign. Dr. Stecker diagnosed left shoulder internal impingement and derangement and recommended a diagnostic arthroscopy. He opined that appellant could work “with limited use of the left upper extremity.”

Dr. Stecker, in a report dated October 4, 2012, discussed his treatment of appellant for an injury to her left upper extremity that occurred at work on January 4, 2012. He released her to work with limitations. Dr. Stecker indicated that, on August 8, 2012, the employing establishment failed to adhere to appellant’s restrictions and she “had an exacerbation and progression of her symptoms.” He recommended a diagnostic arthroscopy due to her persistent symptoms.

By decision dated May 13, 2016, OWCP denied appellant’s traumatic injury claim. It found that the medical evidence of record was insufficient to establish that she had sustained an injury causally related to the accepted August 8, 2012 employment incident.

Appellant advised OWCP on October 19, 2017 that she had not received a copy of the May 13, 2016 decision. The employing establishment also indicated that it had not received a copy of the decision.

On February 26, 2018 OWCP reissued its May 13, 2016 decision denying appellant’s traumatic injury claim.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁷ has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation, that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁸ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁹

⁶ In an August 28, 2012 addendum, Dr. Stecker indicated that the MRI scan study showed “no specific abnormality for labral or cuff pathology” and again recommended a diagnostic arthroscopy.

⁷ 5 U.S.C. § 8101 *et seq.*

⁸ See *R.B.*, Docket No. 18-1327 (issued December 31, 2018).

⁹ See *Y.K.*, Docket No. 18-0806 (issued December 19, 2018).

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged.¹⁰ Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.¹¹

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹²

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish an injury causally related to the accepted August 8, 2012 employment incident.

On August 8, 2012 Dr. Stecker indicated that appellant had sustained an injury seven months earlier. He noted that she had experienced increased symptoms following her return to modified employment. Dr. Stecker provided examination findings and diagnosed left shoulder pain with possible internal derangement, a possible labral tear from her injury, and possible subacromial impingement. He opined that appellant should not work due to her increased symptoms. While Dr. Stecker noted that she had complained of an exacerbation of symptoms after her return to work, he did not obtain a history of an injury occurring on August 8, 2012 or specifically address causation. Without mention of the August 8, 2012 employment incident or an opinion on causation, his opinion is insufficient to establish causal relationship.¹³

Appellant submitted an August 13, 2012 left MRI scan study. However, the Board has held that diagnostic studies lack probative value as they do not address whether the employment incident caused a diagnosed condition.¹⁴

On August 17, 2012 Dr. Stecker advised that the MRI scan arthrogram had not shown a labral abnormality or rotator cuff tear. He diagnosed left shoulder internal impingement and derangement. Dr. Stecker recommended a diagnostic arthroscopy and found that appellant could perform modified employment. On August 28, 2012 he again noted that the MRI scan study did not reveal a labral or rotator cuff tear. In these reports, Dr. Stecker failed to address the cause of

¹⁰ See *G.H.*, Docket No. 18-0989 (issued January 3, 2019).

¹¹ *Id.*

¹² *H.B.*, Docket No. 18-0781 (issued September 5, 2018).

¹³ See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁴ *D.S.*, Docket No. 17-1566 (issued December 31, 2018).

the diagnosed conditions. Medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value regarding the issue of causal relationship.¹⁵

Dr. Stecker, in an October 4, 2012 report, noted that he had treated appellant after she injured her left upper extremity at work on January 4, 2012. Appellant had advised him that the employing establishment had assigned her work outside of her restrictions on August 8, 2012 and that she had sustained an aggravation of her symptoms. While Dr. Stecker noted that appellant had related that she had experienced an exacerbation of her condition on August 8, 2012, he did not make an independent finding regarding causation. A physician's report is of little probative value when it is based on a claimant's belief rather than the physician's independent judgment.¹⁶ Without providing an independent opinion explaining how physiologically the movements involved in the accepted employment incident caused or contributed to the diagnosed condition, Dr. Stecker's opinion is of limited probative value.¹⁷

On March 9, 2013 Dr. Stecker discussed appellant's complaints of left shoulder and wrist pain, especially with repetitive lifting or overhead work. He noted that a left shoulder MRI scan study was unremarkable and that a left wrist MRI scan study showed basal joint osteoarthritis, degenerative changes, and a partial tear in the triangular fibrocartilage. He attributed appellant's symptoms to her previous injury. As Dr. Stecker failed to relate the diagnosed conditions to the August 8, 2012 employment injury, his report is insufficient to meet her burden of proof.¹⁸

Dr. Stecker, on April 16, 2013, advised that he was treating appellant for a January 4, 2012 employment injury. He diagnosed left shoulder impingement syndrome and left wrist tendinitis. In a report dated April 24, 2013, Dr. Fox obtained a history of appellant twisting her left arm and wrist a year earlier while rolling a cart filled with mail that became unbalanced. He diagnosed mild left carpal tunnel syndrome and mild left osteoarthritis of the CMC left thumb joint. Neither Dr. Stecker nor Dr. Fox described the circumstances surrounding the August 8, 2012 employment incident. As discussed, without any mention of the August 8, 2012 employment incident, findings made by the physicians are insufficient to establish causal relationship.¹⁹

Appellant has the burden of proof to submit rationalized medical evidence establishing that she sustained an injury causally related to the accepted employment incident.²⁰ She failed to submit such evidence and thus has not met her burden of proof.²¹

¹⁵ See *D.A.*, Docket No. 18-0783 (issued November 8, 2018).

¹⁶ *M.O.*, Docket No. 18-1056 (issued November 6, 2018).

¹⁷ *A.B.*, Docket No. 18-0577 (issued October 10, 2018).

¹⁸ *Supra* note 13.

¹⁹ *Id.*

²⁰ See *supra* note 7.

²¹ See *A.M.*, Docket No. 18-1148 (issued November 15, 2018).

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128 and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish left wrist and shoulder injuries causally related to the accepted August 8, 2012 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the February 26, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 4, 2019
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board